

## **CONGO, DEMOCRATIC REPUBLIC OF THE (Tier 2 Watch List)**

The Democratic Republic of the Congo (DRC) is a source and destination country for men, women, and children trafficked for the purposes of forced labor and sexual exploitation. Much of this trafficking occurs within the country's unstable eastern provinces and is perpetrated by armed groups outside government control. Indigenous and foreign armed militia groups, notably, the Democratic Forces for the Liberation of Rwanda (FDLR), the National Congress for the Defense of the People (CNDP), various local militia (Mai-Mai), and the Lord's Resistance Army (LRA), continued to abduct and forcibly recruit Congolese men, women, and children to serve as laborers, porters, domestics, combatants, and in sexual servitude. CNDP recruiters, fraudulently promising high-paying employment, enlisted Congolese men and boys from Rwanda-based refugee camps, as well as Rwandan adults and children from towns in western Rwanda, for forced labor and forced soldiering in the DRC.

An unspecified number of children remain with the 81<sup>st</sup> and 85<sup>th</sup> non-integrated Congolese national army (FARDC) brigades under the control of Colonel Philemon Yav and Colonel Samy Matumo, respectively. FARDC elements frequently force men in North Kivu province to carry looted goods or to participate in the construction of military facilities; those who resist are sometimes killed. During the past year, a number of children in Ituri were forced to abandon their studies to work for the army. A number of policemen in eastern DRC reportedly arrested people arbitrarily in order to extort money from them; those who could not pay were forced to work until they had "earned" their freedom.

During the year, the Ugandan terrorist rebel organization, Lord's Resistance Army (LRA), intensified its operations in areas in and near the DRC's Orientale Province, abducting at least 750 people, mostly children, between September 2008 and January 2009 in the DRC, Central African Republic, and southern Sudan to serve as domestics, porters, soldiers, and in sexual servitude. An estimated 300 women and children remain captive with the LRA in DRC's Garamba National Park; some Congolese captives were taken into southern Sudan.

A significant number of unlicensed Congolese artisanal miners – men and boys – are exploited in situations of debt bondage by businessmen and supply dealers from whom they acquire cash advances, tools, food, and other provisions at inflated prices, and to whom they must sell the mined minerals at prices below the market value. The miners are forced to continue to work to repay constantly accumulating debts that are virtually impossible to repay. In North and South Kivu

Provinces, armed groups and FARDC troops reportedly use threats and coercion to force men and children to mine for minerals. Congolese girls are forcibly prostituted in brothels or informal camps -- including in markets and mining areas - - by loosely organized networks, gangs, and madams. Congolese women and children are trafficked internally for domestic servitude and, in smaller numbers, to South Africa, Republic of the Congo, and European nations, such as Norway, for sexual exploitation. Some members of Batwa, or pygmy groups, are subjected to conditions of involuntary servitude in agriculture, mining, and domestic work in eastern DRC.

The Government of the Democratic Republic of the Congo does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Some advances were noted during the reporting period, particularly the enactment of the Child Protection Code, the conviction of an army major -- among others -- for illegally recruiting children, and the launch of a public awareness campaign against the illegal recruitment of child soldiers. Despite these significant efforts, the government did not show evidence of progress in prosecuting and punishing sex trafficking and labor trafficking offenders, demobilizing conscripted child soldiers from its army, or providing protective services for the vast majority of trafficking victims; therefore, the Democratic Republic of the Congo is placed on Tier 2 Watch List. The government continued to lack sufficient financial, technical, and human resources to effectively address trafficking crimes and provide basic levels of security and social services in most parts of the country. The military lacked the capacity to demobilize armed groups or adequately prevent the trafficking violations committed by members of its own forces. The country's criminal and military justice systems, including the police, courts, and prisons, were practically nonexistent after years of war; there were few functioning courts or secure prisons in the country.

**Recommendations for the Democratic Republic of the Congo:** Increase efforts to prosecute and punish trafficking offenders, particularly those who conscript child soldiers, utilize forced labor, or control children in prostitution; punish military and other law enforcement personnel found unlawfully using local populations to perform forced labor or mine for minerals; in partnership with NGOs or religious entities, ensure the provision of short-term protective services to children who are trafficking victims; and work with concession holders to educate mine operators and workers about the illegality of utilizing forced labor.

### ***Prosecution***

The Congolese government made concerted efforts to address the illegal conscription and use of child soldiers by armed groups and government forces through prosecutions and convictions during the reporting period. It demonstrated, however, minimal efforts to bring to justice those committing other types of trafficking crimes. The government lacked judicial presence in many areas of the country where human trafficking occurs, and remained hamstrung by a critical shortage of magistrates, clerks, and lawyers. Existing laws do not prohibit all forms of labor trafficking; however, the July 2006 sexual violence statute, Law 6/018, specifically prohibits and prescribes penalties of 10 to 20 years' imprisonment for sex trafficking, child and forced prostitution, and pimping. The Child Protection Code, Law 09/001, enacted in January 2009, criminalizes and prescribes penalties of five to 20 years' imprisonment for child trafficking and commercial sexual exploitation. It also specifically prohibits the recruitment and use of children by the armed forces, armed groups, and the police. The aforementioned penalties prescribed by both laws are sufficiently stringent and commensurate with penalties prescribed for other serious crimes.

In March 2009, Bukavu police arrested a nightclub owner for allegedly prostituting 10 girls and seven boys in his facility; he was remanded to prison to await formal charges. In April 2008, the Bukavu Military Court sentenced FARDC Major Bwasolo Misaba to five years in prison for conscripting children between the ages of 10 to 14 and illegally using them in military ranks. This is DRC's second conviction of a national army officer for illegally recruiting children to be in the armed forces. In March 2009, the Kipushi Military Tribunal sentenced Kynugu Mutanga (a.k.a. *Gédéon*) to death for crimes against humanity, including illegal child conscription. Seven of his co-defendants received sentences ranging from seven to 10 years' imprisonment for their complicity in these crimes, 11 received lesser sentences, and five were acquitted. In July 2008, Congolese military magistrates and UN Mission to the Congo (MONUC) staff traveled to Orientale Province on a third joint investigative mission to record testimonies of atrocities committed by local Mai-Mai militias; substantial evidence of forced labor of local populations was collected. Kisangani military authorities apprehended five Mai-Mai members for their alleged involvement, but have not set a trial date. Bedi Mubuli Engangela (a.k.a. *Colonel 106*), a former Mai-Mai commander suspected of insurrection and war crimes, including the illegal conscription of children, remains in detention at Malaka Prison in Kinshasa; a trial date for commencement of his prosecution has not been set. These notable efforts notwithstanding, the government's capacity to apprehend, convict, or imprison traffickers remained weak. Commander Jean-Pierre Biyoyo, formerly of the Mudundu-40 armed group and the first person convicted by Congolese courts of conscripting children, has not

been re-apprehended since his escape from prison in June 2006. “Captain Gaston,” an armed group commander allegedly responsible for the mid-2006 murder of an NGO child protection advocate, remained at large during the reporting period; his January 2007 arrest warrant has not been executed. Corrupt officials siphoned meager financial resources available to government agencies responsible for combating human trafficking, further disabling the government from pursuing training, capacity building, or victim assistance.

### ***Protection***

The government offered minimal protection to trafficking victims during the reporting period. NGOs provide nearly all of the shelter, legal, medical, and psychological services available to trafficking victims. Under the National Disarmament, Demobilization, and Reintegration Plan (PNDDR), all ex-combatants, including child soldiers, pass through a common process during which they disarm and receive information about military and civilian reintegration options. During this process, the National Demobilization Agency (UEPN-DDR), in cooperation with MONUC, identifies, separates out, and transports any identified children to NGO-run centers for temporary housing and vocational training; between 2,200 and 3,000 children were demobilized from armed groups through this process in 2008. A sharp increase in child soldier demobilization took place after the signing of a January 2009 agreement between the FARDC and the CNDP, resulting in the demobilization of 223 child soldiers during the first week of the agreement’s implementation. Some FARDC elements essentially outside government control continued during the reporting period to harass, arrest, and physically mistreat children formerly associated with armed groups, including potential trafficking victims; minors detained for child soldiering were generally released quickly if discovered by the MONUC or NGOs. The FARDC lacked sufficient command and control to compel many FARDC commanders, much less militia commanders, with child soldiers serving under them to comply with standing orders to release them.

In December 2008, the Governments of the DRC, Uganda, and Southern Sudan launched a joint military operation against the LRA in the DRC’s territory. The operation is ongoing, but as of this Report’s writing, it had rescued 346 people, including 127 Congolese, Ugandan, and Sudanese children.

Although the national government did not address forced labor in the mining sector, provincial Ministry of Education offices in Mbuji Mayi, Bunia, and Lubumbashi coordinated with NGOs to reintegrate children working in mines into the formal education system. In April 2008, Katanga’s provincial Ministries of

Interior and Labor opened the *Kasapa* residential “welcome center” in Lubumbashi to provide street children, including trafficking victims, with protective services and educational programming; the center is fully funded by the provincial government. Although the Ministry of Labor is responsible for investigating forced child labor and it employs 10 inspectors in Katanga’s mining region, the ministry did not conduct any forced child labor investigations in 2008. Government officials recognize the growing problem of child prostitution in the DRC, though authorities have yet to take concrete action against it. In September 2008, Bukavu child protection police trained 12 brothel and nightclub owners regarding the prohibition against utilizing minors to perform sexual services. The government did not employ procedures for proactively identifying victims of trafficking among vulnerable groups, and it lacked formal procedures for referring victims to protective services. The government is not known to encourage victims to assist in investigations against their traffickers. It offered no legal alternatives to the removal of foreign victims to countries in which they may face hardship or retribution.

### ***Prevention***

While the government initiated awareness raising efforts against the conscription of child soldiers during the year, it made no significant efforts to prevent other forms of trafficking. To raise the awareness of child soldiering issues among Congolese military and political leaders, the UEPN-DDR held events in Kinshasa, Goma, and Bukavu in June 2008 as part of a campaign of zero tolerance for the use of child soldiers. For the general public residing in these same locations, UEPN-DDR produced sketches, public service announcements, and debates broadcasted by six radio and television stations in July and August. The agency also sent field teams on awareness-raising missions to 23 sites throughout South Kivu, North Kivu, Katanga, and Equateur Provinces. The government did not take any known measures during the reporting period to reduce the demand for commercial sex acts.